



**PARTIES**

2. Plaintiff Getty Images (US), Inc. is a New York corporation with its principal place of business in New York, New York.

3. Defendant Total Concrete Solutions, LLC is a Limited Liability Company organized under the laws of the State of Texas, with its principal place of business in San Antonio, Texas. According to the Texas Secretary of State, the company status is listed as forfeited; however, Total Concrete Solutions, LLC continues to advertise and solicit business, including through its website at [www.decoconcretesa.com](http://www.decoconcretesa.com), and, upon information and belief, continues to engage in business in San Antonio, Texas. Upon information and belief, Total Concrete Solutions, LLC directly participated in the wrongful conduct alleged in this Complaint, and/or had the right and ability to supervise, direct and control the wrongful conduct of others, and derived a direct financial benefit from that wrongful conduct.

4. Defendant Concrete & Decorative Concrete, LLC is a Limited Liability Company organized under the laws of the State of Texas, with its principal place of business in San Antonio, Texas. According to the Texas Secretary of State, the company status is listed as forfeited; however, Concrete & Decorative Concrete, LLC continues to advertise and solicit business, including through its website at [www.decoconcretesa.com](http://www.decoconcretesa.com), and, upon information and belief, continues to engage in business in San Antonio, Texas. Upon information and belief, Concrete & Decorative Concrete, LLC directly participated in the wrongful conduct alleged in this Complaint, and/or had the right and ability to supervise, direct and control the wrongful conduct of others, and derived a direct financial benefit from that wrongful conduct.

**JURISDICTION AND VENUE**

5. This Court has original and exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action raises federal questions arising under the laws of the United States (copyright infringement) and pursuant to the Copyright Act, 17 U.S.C. § 101, *et seq.*

6. Defendants are subject to personal jurisdiction in this Court because they are residents of the State of Texas and/or purposefully aimed their activities at the State of Texas from which the claims asserted in this Complaint arise. Additionally, Defendants display their website, [www.decoconcretesa.com](http://www.decoconcretesa.com), throughout the State of Texas, purposefully direct that website to residents of the State of Texas, and otherwise are engaged in business in the State of Texas.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(a), as Defendants or their agent resides or may be found in Bexar County, Texas. Upon information and belief, venue is also proper in this District pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events or omissions giving rise to the claims asserted in this Complaint occurred in the District.

**FACTUAL BACKGROUND**

8. Getty Images is one of the world's leading digital content providers, supplying imagery, video and music to business customers. Getty Images licenses content for a wide variety of uses, including use online, in websites, books, newspapers, magazines, television and film productions, advertisements, marketing materials, products and packaging. Getty Images generates revenue from licensing the rights to use its content, including imagery, and from providing related services.

9. Getty Images was the first company to license imagery via the Internet and today delivers virtually all of its visual content digitally. Visitors to Getty Images' website, [www.gettyimages.com](http://www.gettyimages.com), can search through and view millions of images and obtain licenses for those images online.

10. Getty Images owns some of the content that it licenses. Getty Images also acts as the distributor for more than 200,000 content suppliers – contributors, such as individual photographers, illustrators, filmmakers, media organizations, other stock photo agencies, and independent musicians. Content suppliers typically prefer to retain ownership of their work and, as a result, copyright to content remains with the artists in most cases, while Getty Images obtains by contract the right to market, distribute, and license that content to third parties. Some of this content is licensed to Getty Images on an exclusive basis.

11. Defendants infringed the copyright in a photographic image with the catalog description “bf1429-001–Businessman falling over, legs in air (blurred motion),” that has been reproduced, displayed, and distributed by Defendants on their website, [www.decoconcretesa.com](http://www.decoconcretesa.com), without authorization. The identified image was at that time and is still today exclusively licensed to Getty Images.

12. On three separate occasions between August and September 2015, Getty Images sent written notices to Defendants regarding their unauthorized use of the subject image. Despite Defendants' lack of a license from or payment to Getty Images for their display and use of the image, Defendants failed to respond to Getty Images' notices and offers of settlement.

13. The photographic image described herein is the subject of copyright Certificate of Registration VA 1-850-730 (dated March 8, 2013). Attached as Exhibit A is a true and correct copy of the Certificate of Registration.

14. Getty Images brings this action to recover damages for the harm it has sustained, and for such further relief as sought herein.

### **COUNT I**

#### **(Copyright Infringement, 17 U.S.C. § 501, et seq.)**

15. Getty Images repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 14, inclusive.

16. Getty Images is the exclusive licensee of the photographic image that is the subject of this action. Among the rights granted to Getty Images is the exclusive right to market and sublicense the right to copy, reproduce and display the image. Additionally, Getty Images is granted the exclusive right to make and control claims related to infringements of copyrights in the image. A copy of the copyright Certificate of Registration VA 1-850-730 issued by the United States Copyright Office, for the subject image, is attached as Exhibit A .

17. Defendants have reproduced, displayed, distributed and made other infringing uses of the protected image, without authorization by Getty Images, including Defendants' infringing use of that image on [www.decoconcretesa.com](http://www.decoconcretesa.com).

18. As a result of their conduct, Defendants are liable to Getty Images for copyright infringement.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Getty Images respectfully requests that this Court grant the following relief:

a. That the Court enter a judgment against Defendants finding that it has infringed Getty Images' rights in the photographic image listed in Exhibit A;

b. That the Court enter an order, pursuant to 17 U.S.C. § 504(b), declaring that Defendants hold in trust, as constructive trustees for the benefit of Getty Images, all profits received by Defendants from their reproduction, distribution, display or other infringing uses of the photographic image listed in Exhibit A, and requiring Defendants to provide Getty Images a full and complete accounting of all profits received by Defendants;

c. That the Court order Defendants to pay actual or statutory damages to Getty Images, as follows:

(a) actual damages suffered by Getty Images as a result of Defendants' infringements and all profits of Defendants that are attributable to those infringements, pursuant to 17 U.S.C. § 504(b); or

(b) statutory damages, to the maximum extent permitted by law, for Defendants' infringements of copyright, pursuant to 17 U.S.C. § 504(c);

d. That the Court order Defendants, pursuant to 17 U.S.C. § 505, to pay full costs, including reasonable attorney's fees, incurred by Getty Images in prosecuting this action;

e. That the Court order prejudgment interest on the amount of any award to Getty Images; and

f. That the Court grant to Getty Images such other and additional relief as is just and proper.

Dated: November 21, 2016

Respectfully submitted,

**DAVIS, CEDILLO & MENDOZA, INC.**

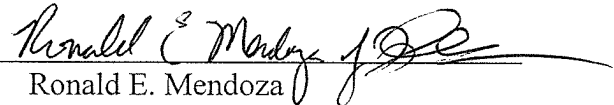
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